

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN ROBERT DEMOS,

Petitioner,

v.

DONALD HOLBROOK,

Respondent.

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No. 4:19-cv-818-NAB

MEMORANDUM AND ORDER

This matter is before the Court for review of a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and a motion for leave to proceed *in forma pauperis* filed by John Robert Demos, a frequent *pro se* and *in forma pauperis* litigator. The Court will grant petitioner leave to proceed *in forma pauperis*, and will dismiss the petition.

Petitioner is an inmate at the Washington State Penitentiary in Walla Walla, Washington, where he is serving a sentence imposed by a Washington state court in 1978. Petitioner states he is challenging the legality of his 1978 arrest, trial and conviction. He alleges his case involves treaty rights under the Vienna Convention, and he claims to be a foreign national, a diplomat, and a “protectorate of the Knights of [illegible]” who answers only to “the P.O.P.E. of Rome and God Himself.” (Docket No. 1 at 6). He states he should be placed in the custody of the United States Attorney General, who must then notify the “Grand Masonic Lodge of England, the Vatican in Rome, the Grand Knight, the British Prime Minister, and the President of the United States.” *Id.* at 6-7.

Jurisdiction over a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 lies either in the district of physical confinement or in the district in which a custodian

against whom the petition is properly directed is present. *McCoy v. United States Board of Parole*, 537 F.2d 962, 964 (8th Cir. 1976). Petitioner is not confined within this judicial district, and his custodian is the warden of the Washington State Penitentiary in Walla Walla, Washington. Consequently, this Court lacks jurisdiction to grant the writ, and will therefore dismiss this case pursuant to Fed. R. Civ. P. 12(h)(3). The Court notes that, even if there were a basis for this Court's jurisdiction, the petition would be subject to dismissal because petitioner's asserted grounds for relief are frivolous. Finally, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed *in forma pauperis* (Docket No. 2) is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED** for want of jurisdiction.

IT IS FURTHER ORDERED that no certificate of appealability shall issue.

A separate order of dismissal will be entered herewith.

Dated this 4th day of April, 2019.

\s\ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE